

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

SECURITIES AND EXCHANGE COMMISSION,  
Plaintiff,

v.

TELEXFREE, INC.,  
TELEXFREE LLC,  
JAMES M. MERRILL,  
CARLOS N. WANZELER,  
STEVEN M. LABRIOLA,  
JOSEPH H. CRAFT,  
SANDERLEY RODRIGUES DE  
VASCONCELOS,  
SANTIAGO DE LA ROSA,  
RANDY N. CROSBY and  
FAITH R. SLOAN,

Defendants  
and

TELEXFREE FINANCIAL, INC.,  
TELEXELECTRIC, LLC and  
TELEX MOBILE HOLDINGS, INC.,

Relief Defendants.

Defendant.

No. 1:14-CV-11858-NMG

**JANUARY 15, 2016 STATUS REPORT OF THE  
DEPARTMENT OF JUSTICE  
CONCERNING PARALLEL CRIMINAL PROCEEDING**

By an order dated October 8, 2014, the Court granted the Department of Justice's motion to intervene in these proceedings, and further granted its motion to stay discovery until parallel criminal proceedings are resolved. *See Order (Dkt # 275)* at 10 ("Discovery in this civil enforcement action brought by the SEC will be STAYED pending resolution of the parallel criminal proceedings against defendants Merrill and Wanzeler in Case No. 14-cr-40028-TSH."). The Court also ordered the Department of Justice ("DOJ") to file a status report on the progress of the criminal case on or before January 15, 2015, and every three months thereafter. *Id.*

On January 15, 2015, the Government filed a status report (*Dkt # 289*). On April 15, 2015, the Government filed a second status report (*Dkt # 295*). On July 15, 2015, the

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Government filed a third status report (Dkt # 309). In October 15, 2015, the Government filed a fourth status report (Dkt # 347). The Government is now filing a fifth status report pursuant to the Court's order.

**The Status Of The Criminal Case**  
**U.S. v. James Merrill and Carlos Wanzeler, No. 14-cr-40028-TSH**

The trial originally set for April 4, 2015, has been continued to October 3, 2016 by District Court Judge Timothy S. Hillman. The case has not been transferred to Judge Hillman's session and Magistrate Judge Hennessy continues to monitor the case.<sup>1</sup> The parties anticipate that the case will be sent to Judge Hillman in the very near future. Discovery is essentially complete with the exception of 21 day disclosures and discovery related to expert witness. The government's expert disclosures are due 90 days before trial and the Defendant's expert disclosures are due 45 days before trial. (*U.S. v. Wanzeler et al.*, 14-cr-40028, *Dkt* # 212).

As described in previous status reports, there is an extremely large volume of discoverable material in this case. Several factors including the volume and scope of discovery, the fact that the case involves documents and witnesses outside the United States, and documents in a foreign language have caused this case to be designated a complex case by the Magistrate pursuant to 18 U.S.C. Section 3161(h)(7)(B)(ii). (*U.S. v. Wanzeler et al.*, 14-cr-40028, *Dkt* # 118).

Magistrate Judge Hennessy and Judge Hillman continue to closely monitor the case. The next status conference is scheduled for today (January 15, 2016) at 2 p.m. Magistrate Judge Hennessy has instructed defense counsel to file pre-trial motions in advance of this conference. The Government anticipates that Magistrate Judge Hennessy will transfer the case to Judge

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<sup>1</sup> In addition to setting the April trial date, District Court Judge Timothy S. Hillman is closely monitoring the progress of the criminal case because the resolution of this case impacts other cases assigned to him. Judge Hillman allowed both the Government's request to intervene and the Government's request for a stay of discovery in a related class action case. See, *In Re: Telexfree Securities Litigation*, MDL No. 14-md-2566-TSH (*Dkt* # 111). The Government has been appearing at the status conferences in the *Telexfree Securities Litigation* matter and updating the Court on the status of the criminal case.

Per the Court's order of October 8, 2015, DOJ will submit another status report  
three months hence, on April 15, 2016.

Respectfully submitted,

CARMEN M. ORTIZ  
United States Attorney

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Date: January 15, 2016

**CERTIFICATE OF SERVICE**

I hereby certify that this document, filed through the ECF system, will be sent electronically to the registered participants as identified on the Notice of Electronic Filing, and paper copies will be sent to those indicated as non-registered participants, on January 15, 2016.

By: /s/ Cory S. Flashner  
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Date: January 15, 2016